Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
	)	
	)	

Reply Comments of Greg Weisiger on the Notice of Proposed Rule Making

It is my pleasure to respond to the many comments submitted to the Commission in response to this Notice of Proposed Rule Making. The comments, submitted from diverse groups of E-Rate applicants, consultants, and vendors provide the Commission with a great deal to deliberate in the upcoming months.

I found comments from individual E-Rate applicants fascinating and quite telling of the frustration applicants feel when dealing with this program. In general, I agree with comments submitted by the Council of Chief State School Officers and Funds for Learning. I also agree with at least one comment from Verizon.

Many submissions urged the Commission to make the E-Rate program simpler for participants. I hope the Commission will take this advice to heart. Many comments suggested the program has already failed recipients, should be abolished and replaced with block grants.

Verizon comments that the Alaska decision should not be expanded, in response to a question posed by the Commission. Verizon correctly points out that universal service support for service providers is limited to specific equipment and services for which support is intended (47 U.S.C. 254(e)). Verizon also correctly contends that universal support for “special” and “additional services” under 47 U.S.C.(c) (3) is limited to schools, libraries and health care providers. In

other words, universal service support for Internet access and broadband connections for the public at large is not allowed in the language of the Act. Although Verizon was using this argument specifically against the Alaska decision, it is also applicable to the Brooklyn decision. Using logic enumerated in the Verizon comments, it is clear that FCC interpretation and SLD policies for implementation of the Brooklyn decision exceed authority granted in the Act. Using the schools and libraries funding mechanism to subsidize the purchase of service provider central office equipment for "special" and "advanced services" is clearly illegal as currently implemented in the Brooklyn decision.

Provisions of the Brooklyn decision actually stipulate that equipment funded through E-Rate could NOT be used exclusively by applicants, thus SLD policies for implementation of the Brooklyn decision actually encourage equipment subsidized through E-Rate funds to be used to provide special and advanced services to entities other than those eligible for E-Rate discounts. I did not initially comment on the Alaska decision and remain neutral on that issue; however, it is clear that Verizon's argument is applicable to Brooklyn.

Many comments urged the Commission to give applicants the choice of discount payment method. I reiterate my contention that the Act specifically gives applicants the right to choose payment method, as the program was established as a discount only program. Language in the Act does not contemplate retroactive payments at all. Therefore, if retroactive payments are offered as an option by the Commission, in defiance of specific Act language, ***applicants*** should certainly be given the choice. In the event that a vendor cannot establish a billing structure to support E-Rate discounts on bills, the Commission should fine those vendors in the amount of committed discounts until the vendor is able to incorporate proper E-Rate discounts on bills.

If applicants choose retroactive payments, those payments should be delivered directly to applicants rather than the current method of passing payments through vendors. Many comments detailed horror stories of retroactive payments delivered by SLD to vendors that never reached applicants either because of vendor bankruptcy or outright fraud. Inasmuch as retroactive payments are not specified in the Act and are a creation of the Commission alone, the method of retroactive payment to applicants is left entirely to the discretion of the Commission, without regard to the Act. I ask the Commission to instruct the program administrator to establish policies and procedures to issue retroactive discount payments directly to applicants.

Unused funds should not be returned to service providers. Comments were split between carriers and applicants on this issue. Aside from the obvious argument that current FCC regulations allowing unused fund carryover, the Act specifically states that contributions should be "predictable." The amount of unused funds has varied widely from year to year and would cause the contribution rate to fluctuate accordingly, thus making contribution levels UN-predictable. Carriers that choose to pass contribution assessments to their customers would have to adjust customer bills quarterly in such a scenario. As a matter of public note however, carriers that already charge customers substantially more in universal service fees than commission assessments could keep customer assessments stable, continue to pocket the difference and simply report to shareholders an increase or decrease in profit margin, depending on FCC quarterly contribution rates.

I wish the Commission the best of luck with its contemplation of submitted comments and replies.

Respectfully Submitted this Fifth Day of May, 2002

Greg Weisiger

I certify a copy of these reply comments have been delivered to Verizon, CCSSO, and Funds for Learning.

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Funds For Learning and CCSSO via email